

## Office of the Secretary of the Treasury

## § 10.79

the Administrative Law Judge's decision.

### § 10.77 Appeal of decision of Administrative Law Judge.

Within 30 days from the date of the Administrative Law Judge's decision, either party may appeal to the Secretary of the Treasury, or his or her delegate. The respondent must file his or her appeal with the Director of Practice in duplicate and a notice of appeal must include exceptions to the decision of the Administrative Law Judge and supporting reasons for such exceptions. If the Director of Practice files an appeal, he or she must provide a copy to the respondent. Within 30 days after receipt of an appeal or copy thereof, the other party may file a reply brief in duplicate with the Director of Practice. If the reply brief is filed by the Director of Practice, he or she must provide a copy of it to the respondent. The Director of Practice must provide the entire record to the Secretary of the Treasury, or his or her delegate, after the appeal and any reply brief has been filed.

### § 10.78 Decision on appeal.

On appeal from or review of the decision of the Administrative Law Judge, the Secretary of the Treasury, or his or her delegate, will make the agency decision. The Secretary of the Treasury, or his or her delegate, will provide a copy of the agency decision to the Director of Practice and the respondent or the respondent's authorized representative. The decision of the Administrative Law Judge will not be reversed unless the appellant establishes that the decision is clearly erroneous in light of the evidence in the record and applicable law. Issues that are exclusively matters of law will be reviewed de novo. In the event that the Secretary of the Treasury, or his or her delegate, determines that there are unresolved issues raised by the record, the case may be remanded to the Administrative Law Judge to elicit additional testimony or evidence. A copy of the agency decision or that of his or her delegate will be provided to the Director of Practice and the respondent contemporaneously.

### § 10.79 Effect of disbarment, suspension, or censure.

(a) *Disbarment.* When the final decision in a case is against the respondent (or the respondent has offered his or her consent and such consent has been accepted by the Director of Practice) and such decision is for disbarment, the respondent will not be permitted to practice before the Internal Revenue Service unless and until authorized to do so by the Director of Practice pursuant to § 10.81.

(b) *Suspension.* When the final decision in a case is against the respondent (or the respondent has offered his or her consent and such consent has been accepted by the Director of Practice) and such decision is for suspension, the respondent will not be permitted to practice before the Internal Revenue Service during the period of suspension. For periods after the suspension, the practitioner's future representations may be subject to conditions as authorized by paragraph (d) of this section.

(c) *Censure.* When the final decision in the case is against the respondent (or the respondent has offered his or her consent and such consent has been accepted by the Director of Practice) and such decision is for censure, the respondent will be permitted to practice before the Internal Revenue Service, but the respondent's future representations may be subject to conditions as authorized by paragraph (d) of this section.

(d) *Conditions.* After being subject to the sanction of either suspension or censure, the future representations of a practitioner so sanctioned shall be subject to conditions prescribed by the Director of Practice designed to promote high standards of conduct. These conditions can be imposed for a reasonable period in light of the gravity of the practitioner's violations. For example, where a practitioner is censured because he or she failed to advise his or her clients about a potential conflict of interest or failed to obtain the clients' written consents, the Director of Practice may require the practitioner to provide the Director of Practice or another Internal Revenue Service official with a copy of all consents obtained by

## § 10.80

the practitioner for an appropriate period following censure, whether or not such consents are specifically requested.

### **§ 10.80 Notice of disbarment, suspension, censure, or disqualification.**

On the issuance of a final order censuring, suspending, or disbarring a practitioner or a final order disqualifying an appraiser, the Director of Practice may give notice of the censure, suspension, disbarment, or disqualification to appropriate officers and employees of the Internal Revenue Service and to interested departments and agencies of the Federal government. The Director of Practice may determine the manner of giving notice to the proper authorities of the State by which the censured, suspended, or disbarred person was licensed to practice.

### **§ 10.81 Petition for reinstatement.**

The Director of Practice may entertain a petition for reinstatement from any person disbarred from practice before the Internal Revenue Service or any disqualified appraiser after the expiration of 5 years following such disbarment or disqualification. Reinstatement may not be granted unless the Director of Practice is satisfied that the petitioner, thereafter, is not likely to conduct himself contrary to the regulations in this part, and that granting such reinstatement would not be contrary to the public interest.

### **§ 10.82 Expedited suspension upon criminal conviction or loss of license for cause.**

(a) *When applicable.* Whenever the Director of Practice determines that a practitioner is described in paragraph (b) of this section, the Director of Practice may institute a proceeding under this section to suspend the practitioner from practice before the Internal Revenue Service.

(b) *To whom applicable.* This section applies to any practitioner who, within 5 years of the date a complaint instituting a proceeding under this section is served:

(1) Has had his or her license to practice as an attorney, certified public accountant, or actuary suspended or revoked for cause (not including a failure

## 31 CFR Subtitle A (7-1-06 Edition)

to pay a professional licensing fee) by any authority or court, agency, body, or board described in § 10.51(i); or

(2) Has, irrespective of whether an appeal has been taken, been convicted of any crime under title 26 of the United States Code, any crime involving dishonesty or breach of trust, or any felony for which the conduct involved renders the practitioner unfit to practice before the Internal Revenue Service.

(3) Has violated conditions designed to promote high standards of conduct established pursuant to § 10.79(d).

(c) *Instituting a proceeding.* A proceeding under this section will be instituted by a complaint that names the respondent, is signed by the Director of Practice or a person representing the Director of Practice under § 10.69(a)(1), is filed in the Director of Practice's office, and is served according to the rules set forth in paragraph (a) of § 10.63. The complaint must give a plain and concise description of the allegations that constitute the basis for the proceeding. The complaint must notify the respondent—

(1) Of the place and due date for filing an answer;

(2) That a decision by default may be rendered if the respondent fails to file an answer as required;

(3) That the respondent may request a conference with the Director of Practice to address the merits of the complaint and that any such request must be made in the answer; and

(4) That the respondent may be suspended either immediately following the expiration of the period within which an answer must be filed or, if a conference is requested, immediately following the conference.

(d) *Answer.* The answer to a complaint described in this section must be filed no later than 30 calendar days following the date the complaint is served, unless the Director of Practice extends the time for filing. The answer must be filed in accordance with the rules set forth in § 10.64, except as otherwise provided in this section. A respondent is entitled to a conference with the Director of Practice only if the conference is requested in a timely filed answer. If a request for a conference is not made in the answer or